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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,754	05/02/2001	Peter Ka-Fai Chow	F1007/2000P	6080
7590	11/30/2004		EXAMINER	
Kelly K Kordzik Winstead Sechrest & Minick P.C. P.O. Box 50784 Dallas, TX 75201			LEE, CHI HO A	
			ART UNIT	PAPER NUMBER
				2663

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/847,754	CHOW ET AL.	
	Examiner	Art Unit	
	Andrew Lee	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 5/2/01.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 11-20 and 32-41 is/are allowed.
- 6) Claim(s) 1-10 and 21-31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-10, 21-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites in line 8, “wherein an asserted second is substituted for an asserted first signal”. It is unclear how the state machine operates in second mode when the “assert second signal” is substituted with the “assert first signal”. This contradicts line 8, “wherein the a network state is the second mode if the second is signal is asserted” because the “the second signal” is substituted with the “first signal”.

As reasoning for Claim 21, line 7, step (b).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-5, 21, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art the current HPNA specification version 2.0 (HPNA 2.0) and Bullman et al U.S. Patent Number 6,574,237.

Re Claims 1, 3-5, 21, 23-25, In Applicant's specification pages 1-3 discloses the HPNA 2.0 specification discloses a control chip 100 (a network state machine) that receives ConfigV1M1 signal (a first signal) to operate in VIM2 mode (first mode),

ConfigV1 signal (second signal) to operate in 1M8 mode (second mode), and ConfigV2 (third signal) to operate a station in V1M2 mode (third mode), wherein if the control chip 100 detects the mode of operation based on the received signals (a network state is the second mode if the second signal is asserted). It is inherent when the control chip detects the ConfigV2, the mode of operation is in V1M2 mode and not in 1M8 mode. HPNA 2.0 fails to explicitly teach the “wherein an asserted second mode is substituted for an asserted first signal”. However, Bullman et al teaches a interoperable network device that for one V2.X device is adapted to recognize a presence of at least one V1.X device and to modify a frame format based on this recognition. In particular, upon detection of the presence of a V1.X node, an advanced terminal tags the system as a mixed mode topology and modifies the preamble of the native mode frame by prepending (second signal substituted for an asserted first signal) a valid V1.X access ID to the native mode frame (See col. 4, lines 30-41). One skilled in the art would have been motivated to Bullman to “second mode is substituted for an asserted first signal” to be adaptive to the operating rate of the network device. Therefore, it would have been obvious to one ordinary skilled incorporate the teaching of Bullman et al into the teaching of the HPNA 2.O specification to read on the claim invention.

Allowable Subject Matter

4. Claims 2, 6-10, 22, 26-31 are would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
5. Claims 11-19, 20, 32-41 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Prior art fails to as described in Independent claims 11, 20, 32, and 41, a state machine that supports the three states of HPNA 2.0 using two network states.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 571-272-3130. The examiner can normally be reached on Monday to Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-571-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AI ANDY LEE
11/22/04 EXAMINER